



General Assembly

February Session, 2008

Raised Bill No. 430

LCO No. 1994

01994_____BA_

Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING LIMITATIONS ON ESCROW ACCOUNTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-2a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) [On and after July 1, 1993, each] No state bank and trust
4 company, national banking association, state or federally chartered
5 savings and loan association, savings bank, insurance company and
6 other mortgagee or mortgage servicing company shall hold funds of a
7 mortgagor in escrow where the mortgage balance is less than half of
8 the current market value of the home. Each state bank and trust
9 company, national banking association, state or federally chartered
10 savings and loan association, savings bank, insurance company and
11 other mortgagee or mortgage servicing company holding funds of a
12 mortgagor in escrow for the payment of taxes and insurance premiums
13 with respect to mortgaged property located in this state shall: (1) not
14 require a mortgagor to maintain more than that required to cover
15 insurance and taxes for one month; and (2) pay interest on such funds,
16 except as provided in section 49-2c, at a rate of not less than [the
17 average rate paid, as of December 30, 1992, on savings deposits by

18 insured commercial banks as published in the Federal Reserve Board
19 Bulletin and rounded to the nearest one-tenth of one percentage point,
20 except in no event shall the rate be less than one and one-half per cent.
21 On and after January 1, 1994, the rate for each calendar year shall be
22 not less than the deposit index as defined in subsection (c) of this
23 section for that year and rounded to the nearest one-tenth of one
24 percentage point, except in no event shall the rate be less than one and
25 one-half per cent] the prime interest rate. Interest payments shall be
26 credited on the thirty-first day of December annually toward the
27 payment of taxes or insurance premiums as the case may be, on such
28 mortgaged property in the ensuing year. If the mortgage debt is paid
29 prior to December thirty-first in any year, the interest to the date of
30 payment shall be paid to the mortgagor. The provisions of this section
31 shall apply only with respect to mortgages on owner-occupied
32 residential property consisting of not more than four living units and
33 housing cooperatives occupied solely by the shareholders thereof. Any
34 mortgagee or mortgage servicing company violating the provisions of
35 this section shall be fined not more than one hundred dollars for each
36 offense.

37 (b) Each mortgagee or mortgage servicing company subject to the
38 provisions of this section may contact the Department of Banking to
39 ascertain the [published deposit index] prime interest rate to determine
40 the minimum rate paid on funds of a mortgagor held in escrow for the
41 payment of taxes and insurance premiums.

42 [(c) The deposit index for each calendar year shall be equal to the
43 average rate paid on savings deposits by insured commercial banks as
44 last published in the Federal Reserve Board Bulletin in November of
45 the prior year. The commissioner shall determine the deposit index for
46 each calendar year and publish such deposit index in the Department
47 of Banking news bulletin no later than December fifteenth of the prior
48 year. For purposes of this section, "Federal Reserve Board Bulletin"
49 means the monthly survey of selected deposits published as a special
50 supplement to the Federal Reserve Statistical Release Publication H.6

51 published by the Board of Governors of the Federal Reserve System or,
52 if such bulletin is superseded or becomes unavailable, a substantially
53 similar index or publication.]

54 Sec. 2. Section 37-9 of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2008*):

56 The provisions of sections 37-4, 37-5 and 37-6 shall not affect: (1)
57 Any loan made prior to September 12, 1911; (2) any loan made by (A)
58 any bank, as defined in section 36a-2 of the 2008 supplement to the
59 general statutes, or any out-of-state bank, as defined in section 36a-2 of
60 the 2008 supplement to the general statutes, that maintains in this state
61 a branch, as defined in section 36a-410 of the 2008 supplement to the
62 general statutes, (B) any wholly-owned subsidiary of such bank or out-
63 of-state bank, except a loan for consumer purposes, or (C) any
64 Connecticut credit union, as defined in section 36a-2 of the 2008
65 supplement to the general statutes, or federal credit union, as defined
66 in section 36a-2 of the 2008 supplement to the general statutes; (3) any
67 bona fide mortgage of real property for a sum in excess of five
68 thousand dollars; (4) (A) any loan, carrying an annual interest rate of
69 not more than the deposit index [determined pursuant to subsection
70 (c) of section 49-2a] for the calendar year in which the loan is made
71 plus seventeen per cent, made to a foreign or domestic corporation,
72 statutory trust, limited liability company, general, limited or limited
73 liability partnership or association organized for a profit or any
74 individual, provided such corporation, trust, company, partnership,
75 association or individual is engaged primarily in commercial,
76 manufacturing, industrial or nonconsumer pursuits and provided
77 further that the funds received by such corporation, trust, company,
78 partnership, association or individual are utilized in such entity's
79 business or investment activities and are not utilized for consumer
80 purposes and provided further that the original indebtedness to be
81 repaid is in excess of ten thousand dollars but less than or equal to two
82 hundred fifty thousand dollars, or, in the case of one or more advances
83 of money of less than ten thousand dollars made pursuant to a

84 revolving loan agreement or similar agreement or a loan agreement
85 providing for the making of advances to the borrower from time to
86 time up to an aggregate maximum amount, the total principal amount
87 of all loans owing by the borrower to the lender at the time of any such
88 advance is in excess of ten thousand dollars but less than or equal to
89 two hundred fifty thousand dollars, or (B) any loan made to a foreign
90 or domestic corporation, statutory trust, limited liability company,
91 general, limited or limited liability partnership or association
92 organized for a profit or any individual, provided such corporation,
93 trust, company, partnership, association or individual is engaged
94 primarily in commercial, manufacturing, industrial or nonconsumer
95 pursuits and provided further that the funds received by such
96 corporation, trust, company, partnership, association or individual are
97 utilized in such entity's business or investment activities and are not
98 utilized for consumer purposes and provided further that the original
99 indebtedness to be repaid is in excess of two hundred fifty thousand
100 dollars, or, in the case of one or more advances of money of less than
101 two hundred fifty thousand dollars made pursuant to a revolving loan
102 agreement or similar agreement or a loan agreement providing for the
103 making of advances to the borrower from time to time up to an
104 aggregate maximum amount, the total principal amount of all loans
105 owing by the borrower to the lender at the time of any such advance is
106 in excess of two hundred fifty thousand dollars; (5) any obligations,
107 including bonds, notes or other obligations, issued by (A) the state, (B)
108 any municipality, including any city, town, borough, district, whether
109 consolidated or not, or other public body corporate, or (C) any
110 authority, instrumentality, public agency or other political subdivision
111 of the state or of a municipality; (6) any loan made by (A) the state, (B)
112 any municipality, including any city, town, borough, district, whether
113 consolidated or not, or other public body corporate, or (C) any
114 authority, instrumentality, public agency or other political subdivision
115 of the state or of a municipality; (7) any loan made for the purpose of
116 financing the purchase of a motor vehicle, a recreational vehicle or a
117 boat, carrying an interest rate of not more than (A) eighteen per cent

118 per annum on loans made on or after July 1, 1981, and prior to October
119 1, 1985, and (B) on loans made on or after October 1, 1985, and prior to
120 October 1, 1993, (i) sixteen per cent per annum for new motor vehicles,
121 recreational vehicles or boats, and (ii) eighteen per cent per annum for
122 used motor vehicles, recreational vehicles or boats, payable in four or
123 more monthly, quarterly or yearly installments which is unsecured or
124 in which a security interest is taken in such property; (8) any loan by
125 an institution of higher education made to an individual for the
126 purpose of enabling attendance at such institution and carrying an
127 interest rate of not more than the greater of (A) the maximum rate then
128 permitted by section 37-4, or (B) a rate which is not more than five per
129 cent in excess of the discount rate, including any surcharge, on
130 ninety-day commercial paper in effect from time to time at the federal
131 reserve bank in the federal reserve district where such institution is
132 located; (9) any loan made to a plan participant or beneficiary from an
133 employee pension benefit plan as defined in the Employee Retirement
134 Income Security Act of 1974, Public Law 93-406, as from time to time
135 amended. The provisions of part III of chapter 668 shall not apply to
136 loans made pursuant to subdivision (7) of this section. No provision of
137 this section shall prevent any such bank, out-of-state bank, Connecticut
138 credit union or federal credit union or other lender from recovering by
139 an action at law the amount of the principal and the interest stipulated
140 or interest at the legal rate, if interest is not stipulated, in any
141 negotiable instrument which it has acquired for value and in good
142 faith without notice of illegality in the consideration. For the purpose
143 of subdivision (4) of this section, the "deposit index" for each calendar
144 year shall be equal to the average rate paid on savings deposits by
145 insured commercial banks as last published in the Federal Reserve
146 Board Bulletin in November of the prior year. The commissioner shall
147 determine the deposit index for each calendar year and publish such
148 deposit index in the Department of Banking news bulletin no later
149 than December fifteenth of the prior year. For purposes of this section,
150 the "Federal Reserve Board Bulletin" means the monthly survey of
151 selected deposits published as a special supplement to the Federal

152 Reserve Statistical Release Publication H.6 published by the Board of
153 Governors of the Federal Reserve System or, if such bulletin is
154 superseded or becomes unavailable, a substantially similar index or
155 publication. For the purpose of this section: "Interest" shall not be
156 construed to include attorney's fees, including preparation of mortgage
157 deed and note, security agreements, title search, waivers and closing
158 fees, survey charges or recording fees paid by the mortgagor or
159 borrower; "consumer purposes" shall mean the utilization of funds for
160 personal, family or household purchases, acquisitions or uses.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	49-2a
Sec. 2	<i>October 1, 2008</i>	37-9

Statement of Purpose:

To prohibit escrow accounts when a mortgage balance is less than half of the current market value of the home; to limit the amount that a mortgagor must maintain in escrow to no more than that required to cover insurance and taxes for one month; and to require payment of interest on escrow accounts at the prime rate.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]